



CANNON BUILDING  
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STATE OF DELAWARE  
**DEPARTMENT OF STATE**  
DIVISION OF PROFESSIONAL REGULATION

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PUBLIC MEETING MINUTES:	<b>COUNCIL ON REAL ESTATE APPRAISERS</b>
MEETING DATE AND TIME:	<b>Tuesday, March 19, 2013 at 9:30 a.m.</b>
PLACE:	861 Silver Lake Boulevard, Dover, Delaware <b>Conference Room A</b> , 2nd floor of the Cannon Building
MINUTES APPROVED:	April 22, 2013

**Members Present**

Georgianna Trietley, Chair, Professional Member  
Ronald Mandato, Vice Chair, Professional Member  
Douglas Nickel, Professional Member  
Lynn Baker, Professional Member  
Brad Levering, Professional Member  
Jan Jenkins, Public Banking Member  
Frank Smith, Public Member  
Richard Wheeler, Public Member

**Division Staff/Deputy Attorney General**

Kevin Maloney, Deputy Attorney General  
Patricia Davis-Oliva, Deputy Attorney General  
Amanda McAtee, Administrative Specialist II  
LaToya Stephens, Administrative Specialist II

**Members Absent**

Frank Long, Public Member

**Public Present**

Andrew A. Whitehead  
Kelly Leaberry  
Richard A. Foley  
Earl Loomis  
Doug Sensabaugh  
Martin Duszak  
Cheryl Russell

**Call to Order**

Ms. Trietley called the meeting to order at 9:41 a.m.

## **HEARING MINUTES**

### **HEARING – Kelly Leaberry**

The Delaware Council on Real Estate Appraisers held a hearing on March 19, 2013, at 09:41 a.m. in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Suite 203, Dover, Delaware.

**PRESENT:** Georgianna Trietley, Ronald Mandato, Brad Levering, Douglas Nickel, Lynn Baker, Jan Jenkins, Frank Smith, Richard Wheeler

**RECUSED:**

**EXCUSED:**

**PURPOSE:** Rule to Show Cause Hearing

**PRESIDING:** Georgianna Trietley, Chair

**BOARD STAFF:** Amanda McAtee, Administrative Specialist II,  
LaToya Stephens, Administrative Specialist II

**DEPUTY ATTORNEY GENERAL FOR THE BOARD:** Patricia Davis-Oliva, DAG  
Kevin Maloney, DAG

**DEPUTY ATTORNEY GENERAL FOR THE STATE:**

**RESPONDENT:** Kelly Leaberry

**COUNSEL FOR THE RESPONDENT:** Andrew A. Whitehead

**WITNESSES FOR THE STATE:**

**WITNESSES FOR THE RESPONDENT:**

**COURT REPORTER PRESENT:** Julie Labadia, Wilcox and Fetzer

**TIME STARTED: 09:41 a.m.**

The court reporter took verbatim testimony. The Board members introduced themselves. Mr. Maloney reviewed the timeline of events and Ms. Leaberry was sworn in at 9:46 a.m.

Mr. Whitehead asked Ms. Leaberry a series of questions to establish a timeline of events. Ms. Leaberry was aware of discipline that has been entered against her and on September 19, 2011 had stopped appraising before the November 2011 suspension on her license went into effect.

One requirement of Ms. Leaberry's Board Order was to report on a quarterly basis to the Council on appraisals done in Delaware. Ms. Leaberry apologized and admitted that they had been submitted late and they were submitted in December of 2012.

Ms. Leaberry stated that she tried to take the Innovia training course while her license was suspended but found out later she took the wrong course. Mr. Whitehead asked Ms. Leaberry to state for the Council the importance of her license. Ms. Leaberry stated that she was the sole supporter of her family, this was her livelihood, and she hoped that the Council accepted what she offered today.

Mr. Whitehead noted that the Rule to Show Cause hearing notice dated January 23, 2013 stated that the work Ms. Leaberry submitted was unsatisfactory. Ms. Leaberry stated that she was unsure of the reason her work was unsatisfactory to the Council.

Mr. Whitehead stated that he asked the Council and the Deputy District Attorney for a discovery of evidence in advance of the hearing. In the letter he asked for specific violations of USPAP and never received a response. Therefore he was not prepared to speak to those violations at the hearing and requested additional time to prepare a defense.

Mr. Mandato stated that he was assigned to review Ms. Leaberry's file. Mr. Mandato pointed out that Ms. Leaberry submitted a Realist training course and had written Innovia training at the top of the receipt. Mr. Mandato questioned if Ms. Leaberry understood the difference between the two courses. Ms. Leaberry stated that she understood and apologized for not initially understanding which course to take.

Mr. Mandato had reviewed the appraisal report of 36399 Ridgeshore Lane Millville, DE 19967 that Ms. Leaberry prepared on July 5, 2012. Mr. Whitehead objected to the proceedings regarding the appraisal report since he had not received it prior to the hearing. Mr. Mandato stated that he chose what would appear to be an easy report for an appraiser to complete. Mr. Whitehead's objection was noted.

Mr. Mandato stated that Ms. Leaberry did not make a notation that she used a MLS photo which was one violation of USPAP/Fannie Mae/lender requirement. The second USPAP violation was found in her neighborhood boundaries. She incorrectly identified the neighborhood boundaries with reference to direction. In addition, Mr. Mandato personally ran sales and came up with seven and Ms. Leaberry stated forty-one in her report. Ms. Leaberry stated that she had received her information from Ryan Homes and that she could not speak to the alleged violations because she did not have her work file.

Mr. Mandato stated that the last page of the report was the Fannie Mae regulatory form 1004 MC which told the reader what was going on in the market and provided an absorption rate. Ms. Leaberry's report did not provide an absorption rate.

Mr. Mandato stated that the real estate market officially crashed in 2007. Ms. Leaberry's report stated that the market stabilized between 2005 and 2006.

Ms. Davis-Olivia stated that Mr. Whitehead had objection to Mr. Mandato's review of Ms. Leaberry's appraisal report. The Council should provide Mr. Whitehead with a list of concerns so that he and his client could better prepare for the hearing.

Mr. Whitehead and the Council agreed to schedule a continuance for the hearing. The Council would provide Mr. Whitehead with a list of concerns and together they would coordinate a new hearing date.

Mr. Levering stated for the record that everything should have been in the hard copy of Ms. Leaberry's report and Ms. Leaberry should not need to refer to notes in her work file.

The hearing concluded at 10:33 a.m.

### **Review and Approval of Minutes**

The Council reviewed the minutes from the February 19, 2013 meeting. Mr. Smith made a motion, seconded by Mr. Mandato, to approve the minutes as submitted. The motion carried unanimously.

## **Unfinished Business**

### **Status of Complaints**

Ms. Trietley stated that complaint numbers 19-11-11, 19-14-11, 19-06-12, and 19-19-12 were dismissed by the division.

### **Re-Review of Application for Certification as an Assessor**

Ms. Trietley stated that the contact information and business address were important because the business address is a prerequisite for holding the license. Mr. Nickel noted that numbers ten and twelve were duplicated on the application. Ms. McAtee stated that she would have the numbers on the application revised. Mr. Mandato made a motion, seconded by Mr. Smith to approve the amended assessor application. The motion carried unanimously.

### **Delaware Real Estate Appraiser Seminar scheduled for April 22, 2013**

Ms. McAtee will email the Council about seminar registration. The Council will reconvene on April 22, 2013 at 2 p.m. at the Division of Professional Regulation for the April Council meeting.

### **Steven Sachs – Consent Agreement**

Ms. Davis-Olivia reviewed the consent agreement of Steven Sachs for the Council. The agreed upon discipline was a letter of reprimand. She stated that the Council could accept or reject the consent agreement as proposed but the Council would not have the ability to change the discipline. Ms. Trietley questioned if Mr. Sachs could still act as a supervisor and Mr. Levering suggested rejecting the consent agreement. Ms. Davis-Olivia stated that the Rules and Regulations would not allow for supervisors to supervise trainees for a period of three years after receiving discipline. If accepted this would become a disciplinary order of the Council and it would be reported. Ms. Trietley stated that the fact he could not supervise for a period of three years would be sufficient in her opinion.

Mr. Levering made a motion to reject the proposed consent agreement. The motion was not seconded.

Mr. Nickel made a motion, seconded by Mr. Baker, to accept the consent agreement of Steven Sachs as presented. The motion was not voted on.

Mr. Mandato stated that the home was appraised for \$100,000 more than the market value. Ms. Jenkins asked what the Council's other options were. Ms. Davis-Olivia stated that the Council could reject the consent agreement. The prosecutor would have the option of trying another consent agreement, bringing the case to the Council for a full hearing, or dismissing the complaint. Mr. Mandato stated that he believed that the Council should be consistent and this was not what the Council had done in the past for this type of infraction.

Mr. Nickel withdrew his earlier motion to approve the consent agreement.

Mr. Levering made a motion, seconded by Mr. Mandato, to decline the consent agreement with an explanation provided to the prosecutor. The motion carried unanimously.

Ms. Davis-Olivia stated that she would summarize the Council's discussion for the prosecutor.

## **New Business**

### **Introduction of New Council Members**

Ms. Trietley introduced Ms. Jenkins, Mr. Nickel, and Mr. Baker to the Council.

Ms. McAtee introduced Ms. Stephens to the Council as their new Council Liaison.

Mr. Levering asked for an update on the Council's Bill. Ms. Davis-Olivia stated that it was written and it was looking for sponsors.

#### New Complaints

There were no new complaints to assign at this meeting.

#### Ratification of Issued Licenses

Mr. Nickel made a motion, seconded by Mr. Mandato, to ratify the list of licenses issued below. The motion carried unanimously.

Andrew McGavisk, Trainee, Supervisor: Steve Kauffman, CCRPA  
Wayne Horvath, CGRPA  
David Schuller, CGRPA  
Carol Myers, CGRPA  
Ted Ganderton, CRRPA  
Corrine Schleigh, Trainee, Supervisors: Rochelle Durham, CCRPA and  
Kevin Brady CRRPA  
Joel Cline, CGRPA

#### Review of Application for Examination

##### Deborah Katzman

Ms. Trietley reviewed the application of Deborah Katzman for the Council. Ms. Trietley made a motion, seconded by Mr. Nickel to approve Deborah Katzman to sit for the examination. The motion carried unanimously.

#### Review of Application for Reciprocity

##### Review of experience log

The experience log for Richard Foley was assigned to Mr. Nickel.

#### Approval of Continuing Education Activities

Mr. Levering made a motion, seconded by Mr. Nickel to table the applications listed below. The motion carried unanimously.

ACEI; dba: Calypso Continuing Education  
Environmental Hazards Impact On Value  
FHA Site Inspection for Appraisers  
Eric Savage  
2-4 Family and Multi-Family  
Foreclosures and Short Sales  
Law Update  
USPAP Update

Mr. Mandato made a motion, seconded by Mr. Nickel to accept the other courses as listed. The motion carried unanimously.

McKissock  
Relocation Appraisal and the New ERC Form  
Delaware Chapter Appraisal Institute  
Delaware Rules and Regulations, May 14, 2013 and September 10, 2013  
Philadelphia Metro Chapter of the Appraisal Institute  
Liability Issues for Appraisers Performing Litigation and other non-lending work

Mr. Levering inquired if continuing education courses required Council approval in order to be accepted for renewal. Ms. Davis-Olivia stated that the Rules and Regulations stated there was a list of topics that were approved. There was not a requirement that continuing education should be approved before taking the courses.

#### Review of Temp applications

Ms. Trietley stated that a temporary application was issued to Sean Reilly. There was no discussion by the Council.

#### **Other Business before the Council (for discussion only)**

##### **Public Comment**

Mr. Sensabaugh inquired if an application fee would be involved with assessor applications. Ms. McAtee responded that there would be a fee of \$136. She also stated that qualifying education required an exam, continuing education would not, and qualifying education would have to be AQB approved.

Earl Loomis questioned the Council what “dismissed by the Division” meant regarding complaints. Ms. Davis-Olivia stated that those complaints were dismissed by the Division after they had been investigated and that complaints typically had to be minor in order to be dismissed. Ms. Davis-Olivia stated that complaints were typically exempt from the Freedom of Information Act. Mr. Mandato stated that the contact person from the Council was involved in the investigation process and they could make recommendations.

Richard Foley inquired about the continuing education regarding his license renewal. Ms. McAtee stated that since he was licensed for less than the two year licensure period, he was required to complete:

- 14 hours of continuing education, 7 hours were required to be classroom hours
- 7 hour USPAP course
- 3 hours of Delaware Law, Rules and Regulations.

##### **Next Meeting**

The next meeting was scheduled for April 22, 2013 at 2:00 p.m. in Conference Room A second floor, Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware.

##### **Adjournment**

Ms. Trietley requested an executive session to receive legal counsel. Mr. Mandato made a motion, seconded by Ms. Jenkins to enter executive session. The motion carried unanimously.

Mr. Nickel made a motion, seconded by Mr. Mandato to adjourn the meeting. There being no further business before the Council, the meeting adjourned at 12:24 p.m.

Respectfully submitted,



Amanda McAtee  
Administrative Specialist II

*The notes of this meeting are not intended to be a verbatim record of the topics that were presented or discussed. They are for the use of the Commission members and the public in supplementing their personal notes and recall for presentations.*